*HON'BLE SRI JUSTICE P.S.NARAYANA

+Writ Petition No.4079 of 1997

%Dated 25-02-2005

Between:

#1. Bhukya Seena Naik

2. Korra Thippanna Naik

3. Korra Sitaram Naik .. PETITIONERS

Versus

$1. The Assistant Director of Fisheries/Ex-Officio Deputy
Registrar of Cooperative Societies, Anantapur.

2. C.G.Project Fisherman Cooperative Society Limited
rep. by President, C.G.Project, Thakal Mandal,
Anantapur district.

..RESPONDENTS

!Counsel for petitioners : Sri A.Bhaskara Chary

^Counsel for Respondents: Govt. Pleader for Fisheries

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> HEAD NOTE:

?1996 (2) ALT 192

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY FIFTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI JUSTICE P.S.NARAYANA

WRIT PETITION NO:4079 of 1997

Between:

1 B. Seena Naik S/o. Gana Naik
R/o. devalm thanda, H/o. Mundalavaripalli Thakal Mandal,
Anantapur Dist.
2 K. Thippanna Naik S/o. Bhimla Naik
R/o. Yenugunda Thanda, Thakal Mandal,
Anatapur Dist.
3 K. Sitaram Naik S/o. Ganga Naik
R/o. Yenugunda Thana, Thakal Mandal,
Anantapur Dist.

..... PETITIONERS

AND

1 The Asst. Director of Fisheries/ Ex-Officio Deputy Registrar of
Co-Operative Societies, Anantapur.
2 C.G.Project Fisherman Co-Operative Society Limited, rep. by President,

C.G. Project, Thakal Mandal, Anantapur Dist.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate Writ, order or direction, preferably one in the nature of Writ of Mandamus, declaring the proceedings dt.
5-12-96 made in Rc.No.1421/96/D on the file of 1st respondent, as illegal, arbitrary and without opportunity.

Counsel for the Petitioners : Sri A.BHASKARA CHARY

Counsel for the Respondents : G.P. FOR FISHERIES

The Court made the following :

ORDER:

1. Heard learned counsel on record.

2. Sri Bhaskarachari, learned counsel representing the writ petitioners had pointed

out that the impugned proceeding dated 05-12-1996 in Rc.No.1421/96/D on the file of first respondent, which had been questioned in the present writ petition, is one made without any competency, authority or jurisdiction. The learned counsel pointed out that for admission of members, there is a procedure contemplated which is mentioned under Andhra Pradesh Cooperative Societies Act and the same has to be followed. The learned counsel also pointed out that at any rate, the Assistant Director of Fisheries, the first respondent –

Ex-Officio Deputy Registrar of Cooperative Societies, Anantapur, cannot issue such directions unless the procedure under the provisions of A.P. Cooperative Societies Act is followed. The learned counsel placed strong reliance on the decision of this Court in B.GIRIBABU Vs. THE DIST. COLLECTOR, GUNTUR .

3. On the contrary, learned Government Pleader for Fisheries had pointed out that in view of the Circular issued by the Commissioner of Fisheries vide Memo No.26130/1(i)/83 dated 23-12-1983 and the guidelines specified therein, the present action had been initiated on the strength of the representation made by 27 fishermen. Learned Government Pleader also pointed to the several details, which had been narrated in the

counter-affidavit filed in this regard.

4. The writ petition is filed for issuance of a writ, order or direction preferably one in the nature of mandamus declaring the proceedings dated 05-12-1996 in Rc.No.1421/96/D on the file of first respondent as illegal and arbitrary and pass such other suitable orders. The first respondent – Assistant Director of Fisheries, Anantapur, had sent communication to the President, C.G. Project Fishermen Cooperative Society, C.G.Project dated 05-12-1996, which is impugned in this writ petition and the proceedings read as under:

"Rc.No.1421/96/D dated 05-12-1996

Sir,

Sub: FISHERIES – Admission of 25 Fishermen's as members in Fishermen Coop. Society, C.G.Project – Regarding.

Ref: 1) Lr.No.NIL/96 dt. 28-11-1996, Jr. Coop. Inspector of this office.

2) Lr.No.FCS/96 dt. 30-11-1996 of Asst. Inspector of Fisheries, Kadiri.

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In the above reference 1st cited, the Inspection of Junior Coop. Inspector examined and inspected the society members given a list of eligible members. In the reference 2nd cited the Asst. Inspector of Fisheries, Kadiri, has also inspected and recommended for admission of members in the above society.

In view of circumstances explained above, the President, C.G.Project Fishermen Coop. Society is requested to admit the 25 members in the society and reported to this office immediately. The admission of members and resolution copy may be sent to this office immediately.

A copy of the eligible members list is herewith enclosed."

The specific stand taken by the learned Government Pleader for Fisheries is that in view of the fact that first respondent is also Ex-Officio Deputy Registrar of Cooperative Societies and in view of the Circular aforesaid, the first respondent is empowered to issue suitable direction and hence, the authority, competency or jurisdiction of the first respondent cannot be doubted in any manner. It is pertinent to note that Section 19 of A.P. Cooperative Societies Act specifies some procedure for admission of members. As can be seen from the averments made in the counter-affidavit, a representation was made to the first respondent by 27 fishermen seeking admission into C.G. Project Fishermen Cooperative Society and on the strength of

the said representation, the impugned order was made.

5. On a careful reading of the impugned proceeding, it is clear that the President of C.G.Project Fishermen Cooperative Society was requested to admit 25 members in the Society who were found eligible and report the matter to the office immediately about admission of members and Resolution copy may be sent to the said office immediately. In the light of the fact that some procedure is contemplated under Section 19 of the A.P. Cooperative Societies Act and in view of the decision of this Court in B.GIRIBABU Vs. THE DIST. COLLECTOR, GUNTUR (1 supra), the writ petition is disposed of with the following directions:

> The persons, who had approached the first respondent, are given liberty to file appropriate applications before the Society concerned in accordance with the procedure contemplated under the provisions of Andhra Pradesh Cooperative Societies Act, and the Society shall take a decision in this regard within a period of one month from the date of receipt of such applications from the said persons, and also to take appropriate further steps in this regard. The aforesaid direction would be just and proper in the circumstances of the case. It is needles to state that no specific orders need be made in respect of the impugned proceedings in the light of the clarification made by this Court by issuing the directions supra.

6. The writ petition is accordingly disposed of. No order as to costs.

25-02-2005

L.R. copy to be marked.

bsc

// TRUE COPY //

SECTION OFFICER

To

1. One Fair copy to the Hon'ble Sri Justice P.S.Narayana
(For his Lordship's kind perusal)

2 The Asst. Director of Fisheries/ Ex-Officio Deputy Registrar of
Co-Operative Societies, Anantapur.
3 The President,

C.G.Project Fisherman Co-Operative Society Limited,
C.G. Project, Thakal Mandal, Anantapur Dist.

4 2 CCs to Govt. Pleader for Fisheries, High Court buildings, Hyderabad

(OUT)

5. 8 LR copies

6. The Under Secretary, Union of India, Ministry of Law, Justice and Company

Affairs, New Delhi.

7) The Secretary, A.P. Advocates' Association Library, High Court

buildings, Hyderabad.

8) 2 CD copies